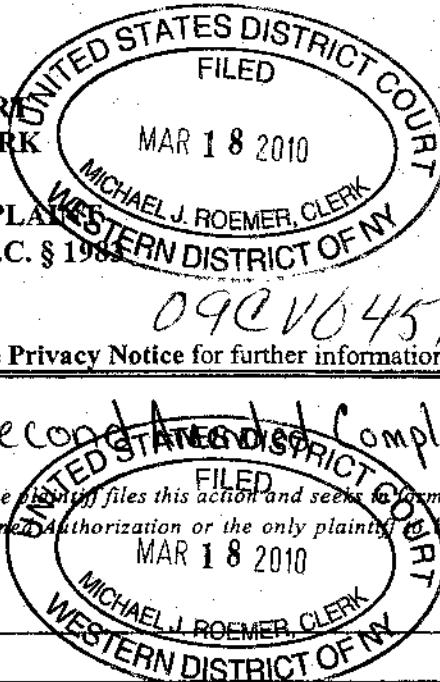


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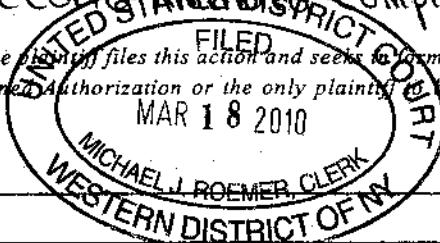
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

09CV0451

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

Second Amended Complaint



A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Shawn Woodward 00A6563

2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. <u>Correctional Officer Mann</u>	4. <u>Correctional Officer Hajan</u>
2. <u>Sergeant Lewalski</u>	5. <u>Correctional Officer Sciumim</u>
3. <u>Correctional Officer Camp</u>	6. <u>Correctional Captain Kearney</u>
7. <u>Correctional Lieutenant S. Fallon</u>	8. <u>Correctional Officer B. Hunt</u>

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTIONPLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.Name and Prisoner Number of Plaintiff: Shawn Woodward 00A6563Present Place of Confinement & Address: Southport Correctional FacilityP.O. Box 2000, Pine City, N.Y. 14871

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

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DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Mann

(If applicable) Official Position of Defendant: Correctional Officer

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: Wende Correctional Facility

P.O. Box 1187 Alden, N.Y. 14004

Name of Defendant: Lewalski

(If applicable) Official Position of Defendant: Correctional Sergeant

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: Wende Correctional Facility

P.O. Box 1187 Alden, N.Y. 14004

Name of Defendant: Camp

(If applicable) Official Position of Defendant: Correctional Officer

(If applicable) Defendant is Sued in Individual and/or Official Capacity

Address of Defendant: Wende Correctional Facility

P.O. Box 1187 Alden, N.Y. 14004

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

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Name of Defendant: Hojan

Official Position of Defendant: Correctional Officer

Defendant Sued in Individual and Official Capacity

Address of Defendant: Wende Correctional Facility

P.O. Box 1187 Alden, N.Y. 14004

Name of Defendant: Scissum

Official Position of Defendant: Correctional Officer

Defendant Sued in Individual and Official Capacity

Address of Defendant: Wende Correctional Facility

P.O. Box 1187 Alden, N.Y. 14004

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to exhaust administrative remedies;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

- plaintiff
- defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

• Religion	• Access to the Courts	• Search & Seizure
• Free Speech	• False Arrest	• Malicious Prosecution
• Due Process	• Excessive Force	• Denial of Medical Treatment
• Equal Protection	• Failure to Protect	• Right to Counsel

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." *Simmons v. Abruzzo*, 49 F.3d 83, 86 (2d Cir. 1995). Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a person or confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to exhaust administrative remedies;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

- plaintiff
- defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ✓ No

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Woodward

Defendant(s): Beam, et al

2. District Court: Westeen

3. Docket Number: 07-cv-0645

4. Name of District or Magistrate Judge to whom case was assigned: District Judge Areara
and Magistrate Judge McCarthy

5. The approximate date the action was filed: October of 2007

6. What was the disposition of the case?

Is it still pending? Yes No ✓

If not, give the approximate date it was resolved. Settled (May of 2009)

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

By court for failure to exhaust administrative remedies;

By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

plaintiff

defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes No

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Woodward

Defendant(s): Mullah, et al

2. District Court: Western District

3. Docket Number: 08-CV-0463

4. Name of District or Magistrate Judge to whom case was assigned: District Judge Arcara
and Magistrate

5. The approximate date the action was filed: June of 2008

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

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did the following to me (briefly state what each defendant named above did): into the messhall's hallway in the middle of plaintiff's messhall job duties, for a unwarranted patfrisk, while plaintiff hands were on the wall, defendant Sergeant ("Sgt") Lewalski who can from the visiting area, pulled one of the officers to the side, wisphered something to him and then grabbed plaintiff by his neck, choked plaintiff and then pinched plaintiff in the back of the head. Sgt. Lewalski then threaten plaintiff with box /isolation placement and physical abuse if he told anyone, plaintiff was then placed on keeplock for 12 days before he knew why. The constitutional basis for this claim under 42 U.S.C. § 1983 is: Retribution for the excessive of freedom of speech, excessive force/ failure to protect; due process rights of confinement (Violation of 1, 8, 14 Amend) The relief I am seeking for this claim is (briefly state the relief sought): _____

The relief I am seeking for this claim is (briefly state the relief sought). \$70,000.00 in punitive damages and \$70,000.00 in compensatory damages

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes _____ No _____ If yes, what was the result? Grievances
was denied and reasons for Marshall removal are mention in Claim 3

Did you appeal that decision? Yes _____ No _____ If yes, what was the result? same results

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so:

If you have additional claims, use the above format and set them out on additional sheets of paper.

6 RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Do you want a jury trial? Yes No

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A. FIRST CLAIM: On (date of the incident) _____ defendant (give the name and position held of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did): On 12-15-08 defendant Correctional Officer ("C.O") Mann retaliated against plaintiff, after plaintiff filed 2 separate grievances - one of being denied the right to attend religious service and the other on the lack of heat and employees smoking cigarettes inside - and helped another inmate prepare grievances against C.O Mann, by moving plaintiff to a coach infested housing cell, where plaintiff was forced to sleep with the lights on, thus being subjected to sleep deprivation, having roaches living in plaintiff food items, clothes, and in and on plaintiff sleeping area

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Retaliation for Freedom of Speech (First Amendment Violation) and Cruel & Unusual Punishment (Eighth Amendment Violation)

The relief I am seeking for this claim is (briefly state the relief sought): _____

\$10,000.00 in punitive damages and \$10,000.00 in compensatory damages.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes No If yes, what was the result? Claim was denied, but DOCS promised to have cell exterminated for roaches

Did you appeal that decision? Yes No If yes, what was the result? same results

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) _____ defendant (give the name and position held of each defendant involved in this incident) On January 1st, 2009 defendants C.O's Camp, Hojan and Scissum - some less than two weeks after filing grievances on several employees in B-Block, etc - took plaintiff

Third Claim

On (date of the incident) On January 10th, 2009 - which was defendant (give the name and position held of each defendant involved in this incident) 10 days that plaintiff had been on Keeplock status from the incident alleged in claim two - defendant Correctional Lieutenant did the following to me (briefly state what each defendant named above did): ("Lt") S. Fallon came to plaintiff's cell to interview plaintiff for his grievance on the defendants of claim two. Plaintiff also expressed his concerns for being on Keeplock for 10 days, with no misbehavior report and /or reason given to plaintiff or known to plaintiff. Other than plaintiff being placed on Keeplock by Sgt. Lewalski after plaintiff was assaulted by Sgt. Lewalski. Lt. S. Fallon left plaintiff cell and on the same day falsified a report recommending that plaintiff be placed in involuntary protective custody because my life was in danger. The constitutional basis for this claim under 42 U.S.C. § 1983 is: retaliation for the exercise of freedom of speech and due process deprivation (1st and 14th Amend Deprivation). The relief I am seeking for this claim is (briefly state the relief sought): \$ 20,000.00 in compensatory damages and \$ 20,000.00 in punitive damages.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes _____ No _____ If yes, what was the result? By the time I received a answer I was released from involuntary protective custody.
Did you appeal that decision? Yes _____ No _____ If yes, what was the result? Appeal as well as initial grievance was denied.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

Fourth Claim

On (date of the incident) On January 12th, 2009 - because of defendant (give the name and position held of each defendant involved in this incident) Lt. S. Fallon's recommendation to have me placed in involuntary protective custody ("I.P.") - defendant Correctional Officer B. Hunt ("C.O. B. Hunt")

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did the following to me (briefly state what each defendant named above did): and Sergeant Barker came to plaintiff's cell to remove plaintiff from his cell and place plaintiff in E-Block where P.C / T.P.C status inmates are confined. When C.O. B. Hunt arrived at plaintiff's cell C.O. B. Hunt stated "muslims wanna kill you cause of that homo shit huh." Then plaintiff was handcuffed and escorted to E-Block. Because of plaintiff's past grievances C.O. B. Hunt allowed those inmates who he has a personal relationship to steal \$137.00 worth of personal property and then falsified reports on the matter.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Retaliation for the exercise of freedom of speech (First Amend Deprivation)

The relief I am seeking for this claim is (briefly state the relief sought): \$25,000.00 in punitive damages and \$20,000.00 in compensatory damages.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes _____ No _____ If yes, what was the result? Claim on property was denied as well as grievance

Did you appeal that decision? Yes _____ No _____ If yes, what was the result? Appeal was denied also

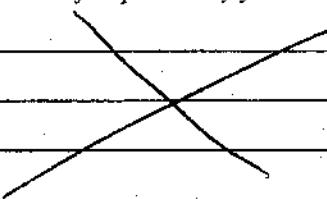
Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.



Do you want a jury trial? Yes _____ No _____

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Fifth Claim

On (date of the incident) Between January 8th, 2009 and January defendant (give the name and position held of each defendant involved in this incident) 11th, 2009 - after the January 1st, 2009 incident, the January 10th, 2009 interview of me by Lt. S. Fallon - defendant Correctional Captain ("Cpt") did the following to me (briefly state what each defendant named above did): Kearney removed plaintiff from his messhall job in retaliation for his grievances on employees of Wende Correctional Facility, specifically those employees of claim two. When plaintiff wrote to Deputy Supt. of Program Services Karen Crowley about the matter, my letter was answered by E. Szemplenski who stated that Cpt. Kearney removed me from the messhall for security reasons. After I filed grievances on this matter, Cpt. Kearney circulated a response that I was removed for "... aggressive homosexual behavior..."
The constitutional basis for this claim under 42 U.S.C. § 1983 is: Petition for freedom of speech
(First Amend Deprivation)

The relief I am seeking for this claim is (briefly state the relief sought): \$ 20,000.00 in punitive damages and \$ 20,000.00 in compensatory damages.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes _____ No _____ If yes, what was the result? Grievance was denied

Did you appeal that decision? Yes _____ No _____ If yes, what was the result? Appeal was denied

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) _____
defendant (give the name and position held of each defendant involved in this incident) _____

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Relief Sought

- 1.) Claim One: \$10,000.00 in compensatory and \$10,000.00 in punitive damages
- 2.) Claim Two: \$70,000.00 in compensatory and \$70,000.00 in punitive damages
- 3.) Claim Three: \$20,000.00 in compensatory and \$20,000.00 in punitive damages.
- 4.) Claim Four: \$20,000.00 in compensatory and \$20,000.00 in punitive damages.
- 5.) Claim Five: \$20,000.00 in compensatory and \$20,000.00 in punitive damages.

Do you want a jury trial? No

I declare under penalty of perjury that the foregoing is true and correct.

Executed On:
March 15th, 2010

By: Shawn Woodward
Shawn Woodward